



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of C.E.M., Police
Officer (S9999RU), Newark

CSC Docket No. 2017-3425

Medical Review Panel Appeal

ISSUED: June 14, 2019 (BS)

C.E.M., represented by Luretha Stribling, Esq., appeals his rejection as a Police Officer candidate by the Newark Police Department and its request to remove his name from the eligible list for Police Officer (S9999R) on the basis of psychological unfitness to perform effectively the duties of the position.

This appeal was brought before the Medical Review Panel on April 27, 2018, which rendered its report and recommendation on April 27, 2018. Exceptions were filed on behalf of the appellant.

The report by the Medical Review Panel discusses all submitted evaluations. It notes that Dr. Guillermo Gallegos (evaluator on behalf of the appointing authority), conducted a psychological evaluation of the appellant and characterized the appellant as having limited cognitive ability, poor dutifulness, and poor integrity. He scored well below average on two tests of cognitive ability, which Dr. Gallegos found suggests the presence of significant deficits in the appellant's ability to learn and perform relatively complex tasks. Dr. Gallegos noted that the appellant was currently appealing the termination from his job after he was accused of assaulting a mentally ill patient; the outcome of this appeal is pending. Dr. Gallegos further noted that the appellant was arrested for possession of marijuana at age 25 (dismissed) and was accused of stealing a UPS package in January 2016 (dismissed), both of which he failed to disclose. The appellant also failed to follow directions or accurately complete his Biological Summary Form (BSF) and failed to provide details on several negative items he endorsed including having been delinquent on a loan, bill, or financial obligation. The appellant told

Dr. Gallegos that he had been issued four or five motor vehicle summonses but only listed two on his BSF. Likewise, the appellant reported three disciplinary incidents as a Hospital Attendant to Dr. Gallegos but only listed two incidents on his BSF. The test data supports Dr. Gallegos' conclusion that the appellant is not psychologically suitable for employment as a Police Officer.

Dr. Ronald G. Silikovitz (evaluator on behalf of the appellant) carried out a psychiatric evaluation of the appellant. During the interview, the appellant was straightforward, sincere, open, and direct in responding to questions. Dr. Silikovitz opined that the appellant was committed and intellectually able, particularly through his academic achievement and Associate's degree in Criminal Justice, to assume the role of Police Officer. Dr. Silikovitz noticed that his disciplinary issues at work had been resolved, he was able to resign and move on with other employment opportunities, no guilt was admitted or established, and all charges have been dismissed. Dr. Silikovitz concluded that the appellant would be able to function as a Police Officer.

The Panel concluded that the negative recommendation found support in the appellant's poor dutifulness, cognitive abilities, and poor integrity. With regard to the appellant's disciplinary suspension for assaulting a patient, the Panel noted that the matter was investigated and eventually brought to the Office of Administrative Law where a settlement agreement was reached. Neither side admitted guilt, the appellant was given a portion of back pay, and he was allowed to resign. The Panel noted that the appellant has had difficulty finding and keeping employment for a significant amount of time and his work history illustrates the concerns of the appointing authority in this regard. For example, he worked as a delivery driver for four to five months and was given the option to resign or be terminated due to a high percentage of errors. The Panel noted that testing conducted by both Drs. Gallegos and Silikovitz were indicative of low intellectual functioning. During the presentation before it, the Panel observed that the appellant had some difficulty understanding the questions, which needed to be repeated, and at times the appellant's explanations were convoluted and difficult to follow. The Panel found this to be consistent with Dr. Gallegos' report which indicate that the appellant had difficulties completing questionnaires and following directions. The Panel found that the test results and procedures and the behavioral record, when viewed in light of the Job Specification for Police Officer, indicate that the candidate is mentally unfit to perform effectively the duties of the position sought, and therefore, the action of the hiring authority should be upheld. The Panel recommended that the appellant be removed from the eligible list.

In his exceptions, the appellant asserts that he has the cognitive ability to perform as a Police Officer as evidenced by his successful graduation from high school and the completion of his Associate's degree. In support of his appeal, the appellant submits a letter of recommendation from one of his high school teachers.

The appellant argues that the evaluation of Dr. Silikovitz was more extensive than that of either Dr. Gallegos or the Panel. Further, the appellant asserts that the Panel's report and recommendation noted that it had reached differing conclusions and, therefore, was not unanimous in its decision regarding the appellant's psychological suitability to be employed as a Police Officer. Therefore, the appellant suggests that the Civil Service Commission reject the findings of Dr. Gallegos and the Panel in favor of that of Dr. Silikovitz and find the appellant psychologically suitable for employment as a Police Officer.

CONCLUSION

The Job Specification for the title, Police Officer, is the official job description for such municipal positions within the civil service system. The specification lists examples of work and the knowledge, skills and abilities necessary to perform the job. Examples include the ability to find practical ways of dealing with a problem, the ability to effectively use services and equipment, the ability to follow rules, the ability to put up with and handle abuse from a person or group, the ability to take the lead or take charge, knowledge of traffic laws and ordinances, and a willingness to take proper action in preventing potential accidents from occurring.

Police Officers are responsible for their lives, the lives of other officers and the public. In addition, they are entrusted with lethal weapons and are in daily contact with the public. They use and maintain expensive equipment and vehicle(s) and must be able to drive safely as they often transport suspects, witnesses and other officers. A Police Officer performs searches of suspects and crime scenes and is responsible for recording all details associated with such searches. A Police Officer must be capable of responding effectively to a suicidal or homicidal situation or an abusive crowd. The job also involves the performance of routine tasks such as logging calls, recording information, labeling evidence, maintaining surveillance, patrolling assigned areas, performing inventories, maintaining uniforms and cleaning weapons.

The Civil Service Commission has reviewed the job specification for this title and the duties and abilities encompassed therein and found that the psychological traits which were identified and supported by test procedures and the behavioral record relate adversely to the appellant's ability to effectively perform the duties of the title. The Commission finds that the arguments raised by the appellant in his exceptions do not persuasively dispute the findings and recommendations of the Panel in this regard. In response to the appellant's assertion that the Panel members arrived at differing conclusions regarding his psychological suitability, the Commission notes that the Panel's report and recommendation indicated that the parties were not in agreement, not the members of the Panel. In this instance, after reviewing of the raw test data and reports of the evaluators as well as the appellant's presentation, the members of the Panel were in agreement that the

appellant was not psychologically suitable for employment as a Police Officer. In those instances where the Panel is not unanimous in its opinion, the Panel recommends and the Commission then orders an independent psychological evaluation.

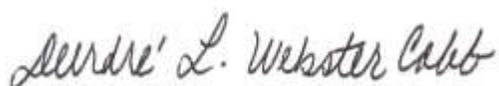
The Commission finds that the appellant's employment record is questionable and supports the findings of poor dutifulness, cognition and integrity issues. The Commission shares the concerns of the appointing authority and Panel that the appellant lacks adequate levels of judgment, adaptability, and conscientiousness to perform the duties of a Police Officer. The Commission notes that length of time an evaluator spends with an appellant is irrelevant as the Panel conducts an independent review of all of the raw data presented by the parties as well as the recommendations and conclusions drawn by the various evaluators prior to rendering its own conclusions and recommendations, which are based firmly on the totality of the record presented to it. The findings of Dr. Silikovitz were thoroughly reviewed by the Panel prior to it making its recommendation. The Panel's observations regarding the appellant's appearance before the Panel are based on its expertise in the fields of psychology and psychiatry, as well as its experience in evaluating hundreds of appellants. Having considered the record and the Medical Review Panel's report and recommendation issued thereon and the exceptions filed on behalf of the appellant, and having made an independent evaluation of same, the Civil Service Commission accepted and adopted the findings and conclusions as contained in the attached Medical Review Panel's report and recommendation.

ORDER

The Civil Service Commission finds that the appointing authority has met its burden of proof that C.E.M. is psychologically unfit to perform effectively the duties of a Police Officer and, therefore, the Commission orders that his name be removed from the subject eligible list.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 12TH DAY OF JUNE, 2019



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